

**TEXAS GROUNDWATER PROTECTION COMMITTEE  
RECORD OF MEETING  
Fourth Quarter Meeting, Fiscal Year 2001**

Meeting Date: August 29, 2001  
Meeting No.: 48

Place: BEG, Building 130  
Room:

TABLE OF CONTENTS

MEETING ATTENDANCE ..... 2

MEETING HANDOUTS ..... 3

MEETING RECORD OF August 29, 2001 ..... 4

    I.    Call to Order and Introductions ..... 4

    II.   Subcommittee Reports - ..... 4

          Agricultural Chemicals ..... 4

          Data Management ..... 4

          Abandoned Water Well Closure ..... 5

          Groundwater Protection Strategy Work Group ..... 5

    III.  Presentation ..... 5

          Roundtable Discussion: - Each Member Will Discuss Major  
          Groundwater Legislation Passed by the 77<sup>th</sup> Legislature, and the Affect on  
          Related Activities in Their Respective Agencies

    IV.  Business - Discussion & Possible Action ..... 9

          Texas Groundwater Protection Strategy - Discuss Ongoing Activities and  
          Possible Action on Draft Outline ..... 9

          Set Future Meeting Dates ..... 10

    V.   Information Exchange for Groundwater Related Activities/Status Update ..... 10

          Interstate Technology and Regulatory Cooperation (ITRC) Workgroup . 10

    VI.  Announcements ..... 10

          TNRCC Rules Update ..... 10

          Upcoming Conferences ..... 10

    VII. Public Comment ..... 10

    VIII. Adjourn ..... 11

## MEETING ATTENDANCE

### TGPC Members

	<u>Affiliation</u>
Mary Ambrose	TNRCC
Richard Ginn	RCT
Stefan Schuster	TWDB
Jeanette Ohare	TDA
Rebecca Smith	BEG
Barry Miller	TAGD
Alan Morris	TDH
Kevin Wagner	TSSWCB
Bruce Lesikar	TAES

TDLR representative absent. TAES representative absent at roll call.

### Agency Staff

	<u>Affiliation</u>	<u>Program</u>
Cary Betz	TNRCC	Technical Analysis Division
Frank Fuller	TNRCC	Policy and Regulatory Division
Steve Musick	TNRCC	Technical Analysis Division
Abiy Berehe	TNRCC	Technical Analysis Division
Elizabeth Rowls	TNRCC	Policy and Regulatory Division
Chris Morales	TNRCC	Water Permits and Resource Management Division
James Sloan	TNRCC	Water Permits and Resource Management Division
Steve Minick	TNRCC	Intergovernmental Relations
Isaac Jackson	TNRCC	Intergovernmental Relations
Snehal Patel	TNRCC	
Elston Johns	TNRCC	
Carolyn Britton	TNRCC	
Julie Talkington	TNRCC	
Ambrose Charles	TDA	

### Interested Parties

	<u>Affiliation</u>
Eric Strom	USGS
Ken Kramer	Sierra Club
Laurie McLaughlin	State Comptroller of Public Accounts

(17 in audience)

## MEETING HANDOUTS

1. Agenda
2. Agricultural Chemicals Subcommittee Report
3. Summary of Combined Meetings of the Methods and Data Comparability Board and the National Water Quality Monitoring Council - Madison WI June 4-7, 2001
4. Plugging Abandoned Water Wells (brochure)
5. Plugging Abandoned Water Wells (facilitator guide)
6. Senate Bill 2 (summary)
7. TNRCC Sunset Bill (summary)
8. State Groundwater Protection Strategy Discussion Draft (timeline)
9. State Groundwater Protection Strategy Discussion Draft (annotated outline)
10. Interstate Technology and Regulatory Cooperation Work Group (ITRC)  
Phytotechnologies Mechanisms & Application (brochure)
11. ITRC Products List
12. ITRC Regulatory acceptance for new solutions (fact sheet)
13. TNRCC *Outlook*
14. Joint Groundwater Monitoring and Contamination Report - 2000
15. TNRCC Rules in Process - Rules Tracking Log
16. Legislation Impacting Railroad Commission Groundwater Protection/Conservation Activities 77<sup>th</sup> Legislative Session - 2001 (summary)

## MEETING RECORD OF AUGUST 29, 2001

### I. Call to Order and Introductions

Mary Ambrose, Designated Chairman of the Texas Groundwater Protection Committee (TGPC), called the FY2001, Fourth Quarterly Meeting to order at approximately 1:30 p.m., CDT.

### II. Subcommittee Reports -

**Agricultural Chemicals** - Steve Musick, TNRCC, Chair. The Agricultural Chemicals Subcommittee held its FY 2001 Fourth Quarterly Meeting on August 9 , 2001 at 10:00 a.m. Subcommittee heard from the Site Selection Task Force and the Education Task Force. The TWDB announced that the groundwater sampling program for the Gulf Coast had been completed, and that the split samples had been provided to TNRCC staff. TNRCC staff reported that the analyses were underway, likely to have been completed by the time of this meeting. The next round of sampling will be in the Llano Uplift Region, sampling the Hickory, Ellenberger and some of the other paleozoic aquifers in the area. Sampling will be conducted by the TWDB in conjunction with the two groundwater conservation districts in the area, the Hickory Underground Water Conservation District and the Lipan-Kickapoo Groundwater Conservation District. While the presence of Atrazine is not anticipated in this area as the majority of irrigated crop production is of peanuts, TNRCC staff is already set up to handle the small number of samples anticipated., and complete that area for ambient monitoring.

The Texas Agricultural Extension Service (TAEX) has changed names and is now the Texas Cooperative Extension (TCE) and reported on several educational and other activities conducted in the panhandle area, with regard to pesticide (general education) and water quality.

No new information has been received from EPA on the final State Management Plan rule.

The Subcommittee discussed the need for Best Management Practice (BMP) development to collect and identify BMPs for Atrazine specific to for Atrazine in the panhandle, and to work with TCE to facilitate educational activities.

**Data Management** - Cary Betz, TNRCC, representative. The Data Management Subcommittee has not met since the last Committee meeting. Full subcommittee roster has not been filled out, but more activity on this subcommittee is expected, as an additional task has been delegated to this group by the Groundwater Protection Strategy Work Group. In the packets members will find the *Summary of Combined Meetings of the Methods and Data Comparability Board and the National Water Quality Monitoring*

*Council - Madison WI June 4-7, 2001.* This summary was prepared by the TNRCC staff member who attended the meetings, but is in training at the time of this TGPC meeting and could not attend.

The time for the biennial National Water Quality Inventory, a.k.a. the 305(b) Report, is coming around again. TGPC prepares the groundwater portion of this report for the State of Texas. A draft for the surface water portion has been prepared and will be circulated for review in September, the groundwater portion will be due in final form in April 2002.

The Joint Groundwater Monitoring and Contamination Report - 2000, is available and mailed out to County Judges in July. Agencies requesting copies of the report need to let Cary Betz know the total number of copies needed, and he will get them to you.

**Abandoned Water Well Closure Task Force** - Bruce Lesikar (TAES) reported the Plugging Abandoned Water Wells facilitator guide has been completed and initial copies are here at the meeting. The bulk of the copies will be provided by the printer later this week. This document is provided as a companion for the video tape. This is a curriculum guide with a lesson plan for one hour of training, along with 8 additional 10-minute lesson plans that can supplement the training, with focus on specific topics - such as groundwater being critical to our water needs, abandoned water wells being a threat to our safety and water supply. This document will be distributed to all county extension agents and groundwater conservation districts.

The quad-fold fact sheet that has been developed for handout at educational days are being sent to the printer tomorrow. The plugging demonstration events planned for this fall are being lined up. A side note is that the Groundwater Conservation District Video is also completed and copies are being distributed.

**Groundwater Protection Strategy Work Group** - Frank Fuller (TNRCC) reported that the strategy work group met on August 8, 2001, and the documents that came out of this meeting will be discussed in detail under the action item portion of the agenda.

### III. Presentation

#### **Roundtable Discussion of Legislation Affecting Member Agencies with Respect to Groundwater Issues -**

Mary Ambrose TNRCC - The agency "sunset" legislation, HB 2912, continued the TNRCC for 12 more years. On January 1, 2004, name will be changed to Texas Commission on Environmental Quality. The bill requires TNRCC to establish a long term plan for research needs of the agency and to use that plan in contracting or providing grants for research. The Commission has been directed to post public information on the internet, which includes minutes of advisory committees, permit and enforcement action information, compliance histories, and emissions inventories by county and account.

Also required by February of 2002 is the development of a uniform definition of “compliance history” and uniform standards for its use. Coupled with that, by September 1, 2002, TNRCC is to develop a system for enforcement actions, issuance of permits and development of innovative programs that is based on compliance history. The Petroleum Storage Tank (PST) program is continued until September 2006, with provisions similar to HB 2687 that also continued the PST program. For those that follow groundwater issues over the Edwards Aquifer, and karst aquifers in general, there is a requirement for secondary containment of underground storage tanks located in the outcrop areas of the Trinity and Edwards Aquifers in Bexar and Comal counties - as interpreted from the legislation. TNRCC is also required to make digital copies of the recharge, contributing and transition zones available to the public, also report annually on the expenses, allocations and fees of the Edwards Aquifer Program, and allow a 30 day comment period for protection plans submitted for activities in the contributing zone of the Edwards Aquifer. TNRCC is required to adopt rules to prohibit the storage, processing and/or disposal of hazardous waste in salt domes. The bill provides for the creation of the Texas Environmental Health Institute, a joint endeavor of the TNRCC and TDH, with the responsibility of investigating and providing treatment for illnesses caused by superfund contamination. This provides that certain multiple treatment on-site systems can be permitted on a tract of land.

Under SB 2, Article 11, provides a ban on Underground Injection Control wells permitted by TNRCC that go into or through Edwards Aquifer.

Stefan Schuster TWDB - SB 2, Article 1 authorizes the Creation of Texas Water Advisory Council, there is a function to provide adequate funding for groundwater projects that falls under the purview of the TWDB. Also in Article 1, there is a definition of conjunctive use (use of surface and ground water to optimize the beneficial characteristics of each) that will raise awareness in the regional planning process. In Article 2, the majority of the changes and responsibilities for TWDB occurred with surface and groundwater conjunctive management. Coordination with groundwater districts and regional water planning groups needs to be obtained and developed on conjunctive management. TWDB is to complete the Groundwater Availability Modeling (GAM) efforts for both major and minor aquifers by October 2004. TWDB is also to look for outstanding conservation efforts. In addition, SB2 changes for the regional planning process includes a separate chapter on conservation efforts for the regional water planning groups. The TWDB water use survey is now mandatory, if you do not turn in your survey, you will be ineligible for TWDB funds or TNRCC permitting. However, there is some concern over the availability of this information to the general public, and there is a provision for a respondent to ask that the information not be made available.

The TWDB is to provide a statewide policy perspective and analysis of the regional water planning process, and the new rules that guide that process are to include provisions to protect agricultural and natural resources in the state. Regional water plans must now include conservation practices and drought management, and the plans must be consistent

with long term protection of the state's water resources. The TWDB is to provide a conflict resolution process for instances when the groundwater management plans may be in conflict with the regional water plans. The groundwater management plans no longer need to be consistent with the regional management plans, but it falls on the TWDB to resolve the conflicts. TWDB is to start designating groundwater management areas by September 2003, the TNRCC will complete the process for any applications that have been filed through September 1, 2003. TNRCC is also to complete the Priority Groundwater Management Area designations by September 2005.

Water infrastructure financing is addressed in Article 4 of SB 2, with the creation of the Water Infrastructure Fund as well as the Rural Assistance Fund which TWDB will be administering. TWDB funds have been expanded for items such as desalinization, brush control and weather modification. The Ag-water Conservation Bond program will include funding for brush control and weather modification.

Steve Musick TNRCC - Of the 13 articles in SB 2, about half are bills that were tacked on as riders. Of the two articles not covered previously, Article 3 provides for the creation and ratification of various districts - 15 districts in all. Outside the realm of SB2, there were over 30 additional pieces of legislation that created or ratified groundwater conservation districts as well, resulting in 35 districts either created or ratified, including all of the districts created in SB 1911 (76<sup>th</sup> Legislature).

Barry Miller - TAGD - SB 2 Chapter 36 discussion. Groundwater Conservation Districts were confirmed as the state's preferred mechanism for groundwater management. The PGMA process was streamlined so that the TNRCC can get on with the business of facilitating the creation of groundwater districts in areas that so desperately need them. The petition process for district creation has also been somewhat streamlined. In response to a court case in which a groundwater district's rules were stricken, Chapter 36 was amended to specifically give groundwater districts the power to regulate spacing and production, and to include the protection of groundwater quality in those provisions. Additionally, groundwater districts were given the power to set a fine of up to \$10,000 per day per violation, and each day of continuing violation constitutes a separate violation - this "Economic benefit" provision will add some "teeth" to district enforcement powers. More incentive has been given for districts to report inadequacies and violations of neighboring districts to the TNRCC. Clarification of the status of "exempt" wells was given, as was authority to regulate wells on 10 acres or less in rapidly urbanizing areas. Taxing districts may now also authorize production fees, and a fee schedule for this was provided. Transportation rules - a district may not adopt rules to prohibit the export of water but may charge a fee for the export of water, and the transportation permit must be for 30 years.

Mary Ambrose for Lee Parham (TDLR) - two bills HB 66 "cleanup bill" for Ch 32 regulating water well drillers HB 71 for "cleanup bill" of Ch 33 for the pump installers.

These were “cleanup bills” with no major changes involved. HB 2813 moves all statutes under TDLR into Texas Occupational Code - Chapter 51 in September 2003

Bruce Lesikar - TAES - SB 2 give specific guidance on the initiation of educational programs for GCDs, by county commissioners.

Jeannette Ohare - TDA - Texas Water Advisory Council, includes TDA as a member. SB2 also set up the Texas Rural Water Assistance Fund that allowed smaller political subdivisions to partner with TDA or Texas Department of Housing and Community Affairs to submit a joint application for financial assistance. The weather modification grant program was moved from TNRCC to TDA. The permitting portion was moved to TDLR. TDA also received the authority to study Best Management Practices for Non-point Source abatement and assist agriculture and wildlife resources, but no funding for this was included.

Richard Ginn - RCT’s sunset bill was SB 310. This authorizes the RCT to continue to exist another 12 years. There were several items related to financial assurance, that help protect water resources. Also, additional and more specific requirements were included for the RCT to handle complaints, including a listing in the file of persons contacted, a summary of the results of the investigation and an explanation of why the complaint file was closed. Parties will be provided a copy of RCT’s policies and procedures in regard to complaint investigations. New oil and gas well plugging requirements include verification that the well has been plugged at the base of usable quality groundwater, and the traditional method for this has been to tag the top of that cement plug with a string of drill pipe. This will require an amendment to Statewide Rule 14 as well as some other items that will change some other requirements in this rule. Section 12 of SB 310, requires that in the case of “plugging back” of oil and gas wells for water production for the private landowners, the landowners are now required to obtain the appropriate permit from local groundwater conservation districts.

Under section 32, covering risk assessment, the RCT is authorized to adopt and establish a risk assessment guide and adopt rules with the risk assessment approach - these are not requirements, but rather authorizations to the RCT. Section 32 did require the RCT to adopt a rule establishing a system to identify the risk associated with abandoned wells - there is an existing procedure for doing this, but it is not in a rule. Section 32 also required RCT to adopt certain requirements in establishing the mechanical integrity of certain high risk wells - this is currently done for wells that are older than 25 years. The Oilfield Cleanup Advisory Committee - was created and nominations are to be taken next month. Section 34 authorized the performance of voluntary cleanups - a program that parallels the existing program at TNRCC.

Clarification of “exempt” wells was an important issue this session, and it clarified the exemption for water wells used for the supply of oil and gas drilling rigs and tied the responsibility for the rig supply well to the person who is permitted to drill the oil and gas

well, and it requires that the water well be located in the same lease or oilfield as the oil and gas drilling rig. Once the rig supply well no longer supplies water for oil and gas drilling activities, then it becomes subject to the regulations of the local groundwater conservation district, which closes a longstanding loop hole. Section 36 exempts water wells that are used to conduct mining activities, but also provides that once the wells are no longer needed to conduct the mining activity or if the production of the well exceeds the amount needed to conduct mining activity, then the well becomes subject to the permitting requirements of local groundwater conservation districts - reporting of amounts drawn and the purpose of the withdrawal must be submitted on a monthly basis to local groundwater conservation districts. Barry Miller (TAGD) posed a question to Richard Ginn about RCT rulemaking for rule 14. The time line for rule amendments should include changes to rule 14 near the end of this calendar year, and open to public comment likely in January or February 2002.

Becky Smith - Nothing to report, but BEG is available to work with TWDB on research provisions of SB2.

Alan Morris - TDH - no groundwater legislation

Kevin Wagner - No legislation covering TSSWCB that directly affects groundwater. SB 1339 has required the development of water quality management plans for poultry operations, which could indirectly pertain to groundwater quality. Additional appropriations for brush control and continuation of the Concho River project were important. TSSWCB was also up for sunset review, and was continued of another 12 years. HB 3355 relates to livestock burial, requires the TSSWCB to identify areas appropriate for livestock burial, which will have soil and groundwater implications.

Note: A copy of the TNRCC publication "Outlook" is included as an overview of other environmental legislation - not limited to just groundwater.

Reminder: Workshop for input into TWDB rules on September 17, 10:00 am.

#### **IV. Business - Discussion & Possible Action**

**Texas Groundwater Protection Strategy** - Frank Fuller and Elizabeth Rowls TNRCC Elizabeth is an intern with TNRCC who has spent the summer interviewing Committee members on their respective agencies' activities and descriptions. She explained the interview process before the Committee, and indicated that written summaries had been returned to the respective Committee members for editing and approval. Once complete, these summaries will be sent to Frank Fuller for incorporation into the final document.

Discussion of Draft Outline and Schedule - no changes from the version presented at the previous meeting has been made, except for the designation of tasks to agencies for completion. Two remaining sections of the strategy will be completed at a facilitated

retreat proposed for some time in January. Under IV A2, a volunteer is needed to take the lead on the non-regulatory model for groundwater protection.

The tentative schedule presented has the goal of having this document completed by December 2002, prior to the next legislative session. Rough draft is planned for February, and time is built in for the concurrence of agency heads, prior to public comment in June. Revisions based on public comment will be submitted to agency heads for concurrence again prior to publication.

TDH moved to adopt the draft outline and time line.

RCT second.

Passed without opposition

**Next meeting date:** Monday, November 26, 2001, 1:00 p.m. or alternate, Wednesday, November 28, 2001. (Alternate date has been adopted.)

## **V. Information Exchange for Groundwater Related Activities/Status Update**

Interagency Technology and Regulatory Cooperation workgroup tries to facilitate innovative technology acceptance by regulatory agencies. A handout was passed, describing the group, its publications and a meeting to be held in Austin September 12 and 13. TNRCC is a member of this group and Mary Ambrose serves as the agency point of contact.

## **VI. Announcements**

TNRCC rule tracking log - process has been changed somewhat, projects do not appear on the log until a draft of the rules has been completed, and the project is approved by the Executive Director. The last page of the handout is a list of all the rulemaking that is taking place.

Symposium on the Edwards Aquifer - From Sole Source to Integrated Resource, Water Management in the Edwards Aquifer Region- September 20-21, Edwards Aquifer Authority

Groundwater Protection Council (GWPC) annual forum - September 26, Reno NV  
Association of State Drinking Water Administrators (ASDWA) annual conference  
October 23-26 Baltimore MD

ITRC November 5-8 Long Beach California

TGPC rules are coming up for quadrennial review, and the TGPC brochure needs to be updated - be thinking about this.

## **VII. Public Comment**

Ken Kramer, Lone Star Chapter Sierra Club - Series of four regional conferences on water issues: September 29 - Houston, October 6 - San Antonio, October 13 - Corpus

Christi, and October 27 - Dallas. Not focused on groundwater, but will include groundwater issues.

### **VIII. Adjourn**

Chair Mary Ambrose adjourned meeting at approximately 2:41 p.m., CDT.

Respectfully submitted,  
Cary Betz